



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

July 7, 2021

VIA ECF

The Honorable Vernon S. Broderick
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

APPLICATION GRANTED
SO ORDERED *Vern Bro*
VERNON S. BRODERICK
U.S.D.J. 7/14/2021

Re: *Kalarickal v. Denis McDonough*¹, No. 20 Civ. 10249 (VSB)

Dear Judge Broderick:

This Office represents defendant Denis McDonough, Secretary of the Department of Veterans Affairs, in the above-referenced employment discrimination suit arising out of Plaintiff's employment at the Department of Veterans Affairs ("VA"). Defendant writes to respectfully request that the Court stay the parties' participation in the Court's Mediation Program.

Plaintiff filed the complaint in this action on December 3, 2020. (Dkt. #1). On January 26, 2021, the Court referred the case to the Court's Mediation Program. (Dkt. #8). On March 29, 2021, Defendant filed a motion to dismiss the Complaint (Dkt. #15-17).

On June 24, 2021, pro bono counsel entered a notice of limited appearance for Plaintiff (Dkt. #26-27), and on July 2, 2021 a mediator was assigned (Dkt. Entry at 7/2/2021). Also, on July 2, 2021, the mediator reached out to counsel for the parties to schedule the mediation.

Defendant respectfully requests that the Court stay the parties' participation in the Court Mediation Program until Defendant's motion to dismiss is resolved. There is a strong likelihood that the motion to dismiss will resolve this action in its entirety. Moreover, as set forth in the Government's motion papers, the Government's position is that this action is wholly without merit. Accordingly, at the present time, the undersigned is not in a position to recommend or obtain authority for settlement of this action. Under these circumstances, Defendant does not believe mediation would be fruitful for the parties before the motion to dismiss is resolved.

A stay of mediation pending the resolution of a potentially dispositive motion would be consistent with the usual practice in this District. In counseled employment discrimination cases, for example, mediation would normally commence only after any motions to dismiss are

¹ Robert Wilkie, who was named as defendant in his capacity as Secretary of the Department of Veterans Affairs, is no longer serving in that office. Secretary Denis McDonough, the current Secretary, was automatically substituted as defendant pursuant to Federal Rule of Civil Procedure 25(d).

resolved and the defendant has filed an answer. *See* S.D.N.Y. Second Amended Standing Administrative Order M10-468 (Oct. 1, 2015).

I thank the Court for its consideration of this request.

Respectfully,

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United States Attorney

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